

## REMARKS

Rejection of claims 1-29 under 35 U.S.C. §103(a) as being unpatentable over Mikami (5,704,031) in view of Day (U.S. Pub No. 2002/0147757 A1)

The Examiner rejected claims 1-29 as being unpatentable over Mikami in view of Day. Applicants traverse the Examiner's characterization of the cited art and the finding of obviousness. The cited art individually or in combination does not teach or suggest the claimed invention. Applicants believe the claims are now in condition for allowance and respectfully request reconsideration.

### Claims 1 and 6

For the claim limitation "the execution data access mechanism allowing access to the execution data by the user of the computer system only if the execution data transmission mechanism is enabled," the Examiner cited Day, paragraphs 37 and 47. Applicants have not found anything in the cited section, or in Day in general to support the Examiner's rejection. Day simply does not teach this limitation. So even if Day is combined with Mikami, the combination does not teach or suggest the invention in claim 1.

Day does not teach or suggest allowing access to the execution data by the user **only if** the execution data transmission mechanism is enabled. Day teaches that a client server can communicate by means of requests and/or responses. The cited sections of Day teach access privileges that allow a user from one company to access only that data from another company's data set which has been enabled for directed access. A combination of Day and Mikami would perhaps teach that access privileges to execution data could be setup to allow one or more specific users to access the data. But Day or the combination does not teach or suggest anything about the specific kinds of

communication in claims 1 and 6. Specifically, Day or the combination does not teach or suggest allowing access to the execution data by the user **only if** the execution data transmission mechanism is enabled. There is no discussion concerning conditional access depending on enablement of the transmission mechanism that transmits the performance data.

The conditional access aspect of the claim is not detailed in the Examiner's rejection. The rejection does not point out where Day or the combination suggests the feature of allowing access to the execution data by the user **only if** the execution data transmission mechanism is enabled. The term "only if" appears in the rejection language only in the negative - that it is not contained in Mikami. It has been assumed herein that the Examiner cites Day for this limitation. However, the rejection language concerning Day does not use the term "only if" or point out where in Day this limitation is found. Perhaps the Examiner has overlooked this important aspect of the claim language. This conditional feature of data access is a valuable feature of the invention as described in the application. This feature allows the user to have access to data only if he is willing to share that data with the system provider.

The cited art singularly or in combination lacks the feature of conditional access to data as claimed by Applicants. Applicants believe the Examiner's stated basis for rejection is without support in Day. The Examiner has simply failed to establish a prima facie case of obviousness under 35 U.S.C. §103(a) for claims 1 and 6. Applicants respectfully request reconsideration of this rejection.

#### Claims 2-5 and 7-10

Each of claims 2-5 and 7-10 depend on claims 1 and 6 respectively, which are allowable for the reasons given above. As a result, claims 2-5 and 7-10 are also allowable as depending on an allowable independent claim. Applicants respectfully

request reconsideration of the Examiner's rejection of claims 2-5 and 7-10 under 35 U.S.C. §103(a).

#### Claims 11 and 13

Each of independent claims 11 and 13 have a similar limitation as described above with reference to claim 1, which is allowable for the reasons given above. In these claims, the focus is on the user's computer (second computer) having access to execution data if transmission of the execution data is enabled. The Examiner has relied on the same references for the rejection of these claims as above. The Examiner's rejection for these claims suffers from the same deficiencies as described above with respect to claim 1 and incorporated here. As a result, claims 11 and 13 are also allowable for the same reasons stated above. Applicants respectfully request reconsideration of the Examiner's rejection of claims 11 and 13 under 35 U.S.C. §103(a).

#### Claims 12 and 14

Each of independent claims 12 and 14 have a similar limitation as described above with reference to claim 1, which is allowable for the reasons given above. In these claims, the focus is on the first computer collecting execution data if transmission of the execution data is enabled, and if also if transmission is enabled allowing access to the execution data by the user of the second computer. The Examiner has relied on the same references for the rejection of these claims as above. The Examiner's rejection for these claims suffers from the same deficiencies as described above with respect to claim 1 and incorporated here. As a result, claims 12 and 14 are also allowable for the same reasons stated above. Applicants respectfully request reconsideration of the Examiner's rejection of claims 12 and 14 under 35 U.S.C. §103(a).

### Claim 15

Independent claim 15 has a similar limitation as described above with reference to claim 1, which is allowable for the reasons given above. This claim is directed to a method of doing business with a computer having a system where customer access to the execution data is disabled if the customer rejects the offer to have access to the data in exchange for the customer sharing the execution data. This feature is not taught or suggested in the cited art. The Examiner did not even attempt to show this feature in the context of a business method. As a result, claim 15 is also allowable for the same reasons stated above and for the lack of a prima facie case directed to the content of these claims. Applicants respectfully request reconsideration of the Examiner's rejection of claim 15 under 35 U.S.C. §103(a).

### Claims 16 and 17

Each of claims 16 and 17 depend on claim 15, which is allowable for the reasons given above. As a result, claims 16 and 17 are also allowable as depending on an allowable independent claim. Applicants respectfully request reconsideration of the Examiner's rejection of claims 16 and 17 under 35 U.S.C. §103(a).

### Claims 18 and 24

Each of independent claims 18 and 24 have a similar limitation as described above with reference to claim 1, which is allowable for the reasons given above. As a result, claims 18 and 24 are also allowable for the same reasons stated above. Applicants respectfully request reconsideration of the Examiner's rejection of claims 18 and 24 under 35 U.S.C. §103(a).

### Claims 19-23 and 25-29

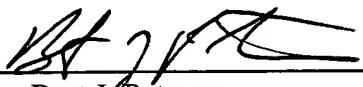
Each of claims 19-23 and 25-29 depend on claims 18 and 24 respectively, which are allowable for the reasons given above. As a result, claims 19-23 and 25-29 are also allowable as depending on an allowable independent claim. Applicants respectfully request reconsideration of the Examiner's rejection of claims 19-23 and 25-29 under 35 U.S.C. §103(a).

### Conclusion

In summary, none of the cited prior art, either alone or in combination, teach, support, or suggest the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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